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Paper No. 12

PETER MELE
PO BOX 533
1505 WHITE CHURCH RD
CROWN POINT NY 12928

MAILED

FEB 28 2011

OFFICE OF PETITIONS

In re Patent No. 6,338,210 :
Issue Date: January 15, 2002 :
Application No. 09/377,929 : DECISION ON PETITION
Filed: August 20, 1999 :
Title: Removal of Accumulated Material :

This is a decision on the "REQUEST FOR RECONSIDERATION UNDER 37 CFR 1.377", filed December 6, 2010.

The petition is DISMISSED.

Patentee is given TWO (2) MONTHS to file a request for reconsideration of this decision under 37 CFR 1.377. Any such request for reconsideration should be accompanied by the \$70 balance for the fee set forth below, and should include a cover letter entitled "REQUEST FOR RECONSIDERATION UNDER 37 CFR 1.377".

The above-identified patent issued on January 15, 2002. Therefore, the window for paying the second maintenance fee extended from January 15, 2009 to July 15, 2009 without surcharge, and from July 16, 2009 to January 15, 2010, with surcharge. No maintenance fee and surcharge having been received in full on or before January 15, 2010, the patent expired on January 16, 2010. Patentee filed a petition under 37 CFR 1.377 on July 12, 2010. However, the petition was dismissed in a decision mailed on September 30, 2010. The petition was dismissed without being considered on the merits because the petition did not include the petition fee in full.

With the instant request for reconsideration, petitioner has submitted the balance of the petition fee due. Accordingly, consideration of the petition is made below.

37 CFR 1.377 states, in pertinent part, that a "patentee who is dissatisfied with the refusal of the Patent and Trademark Office to accept and record a maintenance fee which was filed prior to the expiration of the patent may petition the Commissioner to accept and record the maintenance fee."¹

Here, petitioner states that he timely mailed the maintenance fee on October 8, 2009. As evidence thereof, petition has included a copy of an envelope addressed to "US Patent & Trademark Office, PO Box 371611, Pittsburgh, PA, 15250-1611".

Beginning on August 27, 2007, the address for mailing maintenance fees was changed to "US Patent and Trademark Office, PO Box 979070, St. Louis, MO, 63197-9000". Furthermore, the Office continued receiving payments at the Pittsburgh address up until November 21, 2007. See New Mailing Address for Submitting Patent Maintenance Fee Payments, Official Gazette Notice (August 28, 2007).

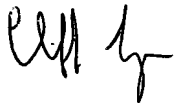
In view of the above, petitioner has not established that he timely mailed the maintenance fee to the proper address. Petitioner may seek to reinstate the expired patent pursuant to either 37 CFR 1.378(b) (unavoidable delay) or 37 CFR 1.378(c) (unintentional delay). Forms for both petitions are enclosed for petitioner's convenience.

Further correspondence should be addressed as follows:

By mail: Mail Stop Petitions
 Commissioner for Patents
 P.O. Box 1450
 Alexandria VA 22313-1450

By FAX: (571)273-8300
 Attn: Office of Petitions

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3207.



Cliff Congo
Petitions Attorney
Office of Petitions

Enc: PTO/SB/66 (3 pages)
 PTO/SB/65 (4 pages)
 Privacy Act Statement (1 page)

¹ 37 CFR 1.377(a).